

## **Chapter 160A.**

### **Cities and Towns.**

#### **Article 1.**

##### **Definitions and Statutory Construction.**

#### **§ 160A-1. Application and meaning of terms.**

Unless otherwise specifically provided, or unless otherwise clearly required by the context, the words and phrases defined in this section shall have the meaning indicated when used in this Chapter.

- (1) "Charter" means the entire body of local acts currently in force applicable to a particular city, including articles of incorporation issued to a city by an administrative agency of the State, and any amendments thereto adopted pursuant to 1917 Public Laws, Chapter 136, Subchapter 16, Part VIII, sections 1 and 2, or Article 5, Part 4, of this Chapter.
- (2) "City" means a municipal corporation organized under the laws of this State for the better government of the people within its jurisdiction and having the powers, duties, privileges, and immunities conferred by law on cities, towns, and villages. The term "city" does not include counties or municipal corporations organized for a special purpose. "City" is interchangeable with the terms "town" and "village," is used throughout this Chapter in preference to those terms, and shall mean any city as defined in this subdivision without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage. The terms "city" or "incorporated municipality" do not include a municipal corporation that, without regard to its date of incorporation, would be disqualified from receiving gasoline tax allocations by G.S. 136-41.2(a), except that the end of status as a city under this sentence shall not affect the levy or collection of any tax or assessment, or any criminal or civil liability, and shall not serve to escheat any property until five years after the end of such status as a city, or until September 1, 1991, whichever comes later.
- (3) "Council" means the governing board of a city. "Council" is interchangeable with the terms "board of aldermen" and "board of commissioners," is used throughout this Chapter in preference to those terms, and shall mean any city council as defined in this subdivision without regard to the terminology employed in charters, local acts, other portions of the General Statutes, or local customary usage.
- (4) "General law" means an act of the General Assembly applying to all units of local government, to all cities, or to all cities within a class defined by population or other criteria, including a law that meets the foregoing standards but contains a clause or section exempting from its effect one or more cities or all cities in one or more counties.
- (5) "Local act" means an act of the General Assembly applying to one or more specific cities by name, or to all cities within one or more specifically named counties. "Local act" is interchangeable with the terms "special act," "public-local act," and "private act," is used throughout this Chapter in preference to those terms, and shall mean a local act as defined in this

subdivision without regard to the terminology employed in charters, local acts, or other portions of the General Statutes.

- (6) "Mayor" means the chief executive officer of a city by whatever title known.
- (7) "Publish," "publication," and other forms of the verb "to publish" mean insertion in a newspaper qualified under G.S. 1-597 to publish legal advertisements in the county or counties in which the city is located.
- (8) "Rural Fire Department" means, for the purpose of Articles 4A or 14 of this Chapter, a bona fide department which, as determined by the Commissioner of Insurance, is classified as not less than class "9" in accordance with rating methods, schedules, classifications, underwriting rules, bylaws or regulations effective or applied with respect to the establishment of rates or premiums used or charged pursuant to Article 36 or Article 40 of Chapter 58 of the General Statutes, and which operates fire apparatus and equipment of the value of five thousand dollars (\$5,000) or more; but it does not include a municipal fire department. (1971, c. 698, s. 1; 1973, c. 426, s. 3; 1983, c. 636, s. 17.1; 1985 (Reg. Sess., 1986), c. 934, s. 1.)

#### **§ 160A-2. Effect upon prior laws.**

Nothing in this Chapter shall repeal or amend any city charter in effect as of January 1, 1972, or any portion thereof, unless this Chapter or a subsequent enactment of the General Assembly shall clearly show a legislative intent to repeal or supersede all local acts. The provisions of this Chapter, insofar as they are the same in substance as laws in effect as of December 31, 1971, are intended to continue such laws in effect and not to be new enactments. The enactment of this Chapter shall not require the readoption of any city ordinance enacted pursuant to laws that were in effect before January 1, 1972, and are restated or revised herein. The provisions of this Chapter shall not affect any act heretofore done, any liability incurred, any right accrued or vested, or any suit or prosecution begun or cause of action accrued as of January 1, 1972. (1971, c. 698, s. 1.)

#### **§ 160A-3. General laws supplementary to charters.**

(a) When a procedure that purports to prescribe all acts necessary for the performance or execution of any power, duty, function, privilege, or immunity is provided by both a general law and a city charter, the two procedures may be used as alternatives, and a city may elect to follow either one.

(b) When a procedure for the performance or execution of any power, duty, function, privilege, or immunity is provided by both a general law and a city charter, but the charter procedure does not purport to contain all acts necessary to carry the power, duty, function, privilege, or immunity into execution, the charter procedure shall be supplemented by the general law procedure; but in case of conflict or inconsistency between the two procedures, the charter procedure shall control.

(c) When a power, duty, function, privilege, or immunity is conferred on cities by a general law, and a charter enacted earlier than the general law omits or expressly denies or limits the same power, duty, function, privilege or immunity, the general laws shall supersede the charter. (1971, c. 698, s. 1.)

#### **§ 160A-4. Broad construction.**

It is the policy of the General Assembly that the cities of this State should have adequate authority to execute the powers, duties, privileges, and immunities conferred upon them by law. To this end, the provisions of this Chapter and of city charters shall be broadly construed and grants of power shall be construed to include any additional and supplementary powers that are reasonably necessary or expedient to carry them into execution and effect: Provided, that the exercise of such additional or supplementary powers shall not be contrary to State or federal law or to the public policy of this State. (1971, c. 698, s. 1.)

**§ 160A-4.1. Notice of new fees and fee increases; public comment period.**

(a) A city shall provide notice to interested parties of the imposition of or increase in fees or charges applicable solely to the construction of development subject to the provisions of Part 2 of Article 19 of this Chapter at least seven days prior to the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration. The city shall employ at least two of the following means of communication in order to provide the notice required by this section:

- (1) Notice of the meeting in a prominent location on a Web site managed or maintained by the city.
- (2) Notice of the meeting in a prominent physical location, including, but not limited to, any government building, library, or courthouse within the city.
- (3) Notice of the meeting by electronic mail to a list of interested parties that is created by the city for the purpose of notification as required by this section.
- (4) Notice of the meeting by facsimile to a list of interested parties that is created by the city for the purpose of notification as required by this section.

(a1) If a city does not maintain its own Web site, it may employ the notice option provided by subdivision (1) of subsection (a) of this section by submitting a request to a county or counties in which the city is located to post such notice in a prominent location on a Web site that is maintained by the county or counties. Any city that elects to provide such notice shall make its request to the county or counties at least 15 days prior to the date of the first meeting where the imposition of or increase in the fees or charges is on the agenda for consideration.

(b) During the consideration of the imposition of or increase in fees or charges as provided in subsection (a) of this section, the governing body of the city shall permit a period of public comment.

(c) This section shall not apply if the imposition of or increase in fees or charges is contained in a budget filed in accordance with the requirements of G.S. 159-12. (2009-436, s. 2; 2010-180, s. 11(b).)

**§ 160A-5. Statutory references deemed amended to conform to Chapter.**

Whenever a reference is made in another portion of the General Statutes or any local act, or any city ordinance, resolution, or order, to a portion of Chapter 160 of the General Statutes that is

repealed or superseded by this Chapter, the reference shall be deemed amended to refer to that portion of this Chapter which most nearly corresponds to the repealed or superseded portion of Chapter 160. (1971, c. 698, s. 1; 1973, c. 426, s. 2.)